

Medical Legal Fee Schedule – 1 st and 2 nd 15 Day comments	RULEMAKING COMMENTS 1 st and 2 nd 15 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9795(c) ML 105	<p>Commenter believes the Division's attempt to regulate ML-105 fees for depositions are completely unreasonable, particularly the cap on hourly fees and the one hour minimum. A deposition is a major intrusion on a physician's practice and the date and time are often delayed and forced upon the physician in a way to cause disruption in patient care responsibilities. Depositions require much administrative time for scheduling, logistics, and are often cancelled and postponed. This is part of the reason that physicians charge at least a half day minimum of 500 dollars per hour for testimony in court or in deposition. Commenter suggests that the Division do a random series of interviews with qualified forensic specialists and ask them what are their expert deposition and court appearance fees and speculates that the numbers he quoted are at the low end. Commenter is aware of some physicians who charge \$1200 per hour with a minimum of four hours for any kind of testimony. Commenter believes the Division's suggested fees are half of those commonly charged.</p> <p>Commenter requests that the Division t set the fees at a rate where physicians don't lose money performing a service that is a major hassle and intrusion on their clinical time.</p>	James O-Brien, M.D. March 30, 2006 Written Comment	The Division disagrees. The Division has concluded that the fees set in the regulation are adequate compensation. The commentator is discussing a subject which was not addressed in the modified text.	No action required.
Section 9795(c)	Commenter states that with the passage of new laws and regulations the paperwork, reporting requirements, time spent, and financial costs have all continued to rise in not only a slow and progressive manner but since SB899,4663 and 4664 in a more exponential manner. Not only have physician fees not	Philip Sobol, M.D. April 3, 2006 Written Comment	In the first part of this comment, the commentator is discussing a subject which was not addressed in the modified text.	No action required.

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	<p>increased, but thanks to these recent law changes physician's patient numbers are decreased due to networks. These networks now take a significant % of physicians fees and the insurance carriers are paying more slowly than ever (if at all) and therefore the costs of carrying receivables, of paying collectors to go to court have all impacted on the bottom financial line. The enjoyment and desire to help the injured worker following injury is diminishing as well due to the increase in time spent, the frustration in lack of obtaining authorization for evaluation and treatment at all and certainly not in a timely or sufficient manner.</p> <p>Now the Division proposes to make it even more difficult to bill and charge for the already excessive times spent so that the fees will in actuality be decreasing relative to time spent. The complexity of dealing with a work related injury has always been extensive and even more so now with law changes. Commenter states that many of his physician colleagues have dropped out of treating work injury patients due to the excessive time and difficulties as discussed above for the poor remuneration given. Commenter states that if the recent proposals are enacted many more, himself included, will consider either earlier retirement or stopping our evaluation and treatment of the injured workers and changing our practice flow.</p> <p>Commenter has reviewed reports by physicians not qualified and trained well in the legalese, medical care and reporting</p>		<p>The Division agrees that some practitioners are leaving the system, but disagrees that the changes in the regulations will make the fee system more complex, and cause more practitioners to leave the system.</p> <p>The Division disagrees that the fee system will be more complex, and disagrees that fees are being</p>	<p>No action required.</p> <p>No action required.</p>

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	<p>requirements and believes that the division, the state and the injured worker will face a disastrous calamity in the care of these patients. Commenter states that the Division should not be complicating and/or changing the rules to further decrease the fees for MDs but should be simplifying them and in fact increasing the fees to match with the greater complexity, expertise and time commitments required currently.</p> <p>Commenter suggests that rather than need a spate of individual factors to bill for complexity, simplify by charging solely for documented time spent in any of the endeavors(e.g. face to face, research and report writing) as a whole.</p>		decreased, as the base fee is being increased by 25%.	
Section 9795(c)(7)	Commenter supports the revisions to the ML 103 complexity factor.	Diane Przepiorski Executive Director California Orthopaedic Association April 3, 2006 Written Comment	The comment does not suggest a change.	No action required.
Section 9795(c) ML-103(2)	Commenter states the proposal maintains the former position that one complexity factor should be acknowledged if two or more hours of record review by the physician are noted. Nevertheless, commenter would like to go one level higher. Commenter states the vast majority of the time he spends when performing medical-legal evaluations these days is the time spent reviewing medical records. Frequently, there are literally voluminous medical records. Sometimes the records come in one or more bankers boxes, and sometimes the records are so heavy that his secretary cannot lift them all at one time	Robert J. Cooper, M.D. Assistant Clinical Professor of Psychiatry, Retired UCLA School of Medicine April 3, 2006 Written Comment	The Division disagrees. Review of records is additionally compensated when there is a substantial amount of records, and thus that factor should not give rise to a complexity factor.	No action required.

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	<p>by herself.</p> <p>Commenter proposes a new complexity factor. Specifically, it would be that "Four or more hours of record review by a physician shall count as complexity factors."</p> <p>Commenter is concerned about the rather significant changes addressing the issue of apportionment as a complexity factor. Commenter states that the new proposals are insufficient. Addressing the issue of apportionment has always been considered one of the classical complexity factors. Now that there has been the passage of SB 899 and the Escobedo case, the issue of apportionment has become at least three times more challenging than in the past. Thus, commenter recommends that simply addressing the issue of apportionment be maintained as a single factor of complexity. Commenter treats psychiatric patients. They just have one body system, namely the psyche, which is the focus of his evaluation and expertise. They may have only one injury (mental disorder), but the mental disorder might have played severe havoc in the individual's entire life. The one mental disorder might have resulted from a number of industrial and non-industrial stressors. The ultimate determination of the cause of impairment is usually quite complex. Thus, commenter believes that narrowing, rather than maintaining the current regulations concerning the concept of apportionment as a complexity factor is unrealistic. Commenter</p>		<p>The Division disagrees. Review of records is additionally compensated when there is a substantial amount of records, and thus that factor should not give rise to a complexity factor.</p> <p>The Division disagrees. Recognizing that some minimal discussion of apportionment may required in many more case, not otherwise entitled to complexity factors, the base level of compensation for all evaluations has been increased.</p>	<p>No action required.</p> <p>No action required.</p>

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	has always found the assessment of an applicant's level of impairment/disability to be the most complex, thought provoking and time consuming activity that he performs, but addressing the issue of apportionment comes in a close second.			
Section 9795(c)	<p>Commenter strongly urges that the modifier for examinations performed by an AME be increased to at least 35%.</p> <p>Commenter believes that the changes to this section will only exacerbate the problem of too few evaluating physicians in the system. Commenter understands that the number of physicians signing up for the next QME exam is down more than two-thirds, and that just 59 physicians passed the exam at the last test. The growing dissatisfaction of physicians and their increasing tendency to exit the system</p>	<p>Mark Gerlach Consultant California Applicants' Attorneys Association April 6, 2006 Written Comment</p>	<p>The commentator is discussing a subject which was not addressed in the modified text.</p> <p>The Division disagrees. The Division finds that the increased compensation for evaluations will contribute to alleviation of the problem of physicians leaving the system.</p>	<p>No action required.</p> <p>No action required.</p>

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	<p>has already caused scheduling times for AMEs to stretch far beyond what should be acceptable for both workers and employers, and based on the low numbers of QME applicants cited above commenter is afraid that unreasonable delays may soon also be the rule in setting appointments for QMEs. Commenter believes that the Division should be considering changes in these regulations that will eliminate some of the frustrations facing evaluating physicians.</p> <p>This is not simply a worker issue. In fact, during the recent advisory committee meeting held by your Division the entire workers' compensation community, including workers, employers, insurers, and physicians, spoke in unity strongly supporting the need to <i>increase</i> fees for evaluating physicians. This unusual unity was a result of a common understanding that all parties benefit when there are sufficient evaluating physicians to serve as AMEs and QMEs.</p> <p>As commenter pointed out in his letter of January 30th regarding these regulations, meeting all of the new requirements of the statute has already increased the time and expertise needed to prepare evaluation reports. Instead of adopting further regulatory changes that only make it more frustrating and expensive to qualify for the 103 and 104 levels, commenter believes the Division should be considering adopting additional complexity factors so that more evaluations will qualify for the 103 and 104 levels.</p>		<p>The Division disagrees that many fewer examinations will qualify for the ML 103 and ML 104 evaluations.</p>	<p>No action required.</p>

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Section 9795(f)	Commenter agrees that the changes to these regulations should apply to supplemental reports requested after the effective date of the changes, regardless of the date of the original examination.	Mark Gerlach Consultant California Applicants' Attorneys Association April 6, 2006 Written Comment	Commenter agrees with change.	No action required.
General Comment	Commenter agrees with the proposed changes made by the Division.	Tina Coakley Legislative & Regulatory Analyst – Enterprise Environmental Affairs The Boeing Company April 10, 2006 Written Comment	Commenter agrees with change.	No action required.
Section 9793(i)	Commenter has reviewed and supports the proposed added definition as it clarifies what types of resources are considered medical research and specifically which sources are not. This added definition will reduce billing disputes when physicians are requesting medical-legal evaluation report to be reimbursed at the ML103 Code while specifying complexity factor (3) as one of the three complexity factors.	Jose Ruiz Claims Operation Manager State Compensation Insurance Fund April 13, 2006	Commenter supports the regulation change.	No action required.
Section 9795(c) ML Codes: 101, 102, 103, 104 & 105	Commenter is in agreement with the rounding the time spent on each activity in the performance of the Medical-Legal Evaluation to the nearest quarter hour as this will help to avoid potential billing disputes.	Jose Ruiz Claims Operation Manager State Compensation Insurance Fund April 13, 2006	Commenter supports the regulation change.	No action required.
Section 9795(c) ML103 & ML 104 – Complexity Factor (3)	Commenter is in agreement with the added requirement for physicians to excerpt or furnish copies of medical evidence relied upon when requesting medical-legal reimbursement for complexity factor (3) when the physician performs 2 or more hours of medical research.	Jose Ruiz Claims Operation Manager State Compensation Insurance Fund April 13, 2006	Commenter supports the regulation change.	No action required.
Section 9795 (c) ML103 Complexity	Commenter is in agreement with the added language clarifying what factors must be in	Jose Ruiz Claims Operation	Commenter supports the regulation change.	No action required.

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Factor (7)	place to consider apportionment as a complexity factor.	Manager State Compensation Insurance Fund April 13, 2006		
Section 9795(f)	Commenter agrees that supplemental medical-legal reports should be included under the new proposed Medical-Legal Fee Schedule.	Jose Ruiz Claims Operation Manager State Compensation Insurance Fund April 13, 2006	Commenter supports the regulation change.	No action required.